

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JERRI-LYNN JOHNSON and U.S. POSTAL SERVICE,
JACKSON PARK POST OFFICE, Chicago, IL

*Docket No. 99-2244; Submitted on the Record;
Issued September 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant met her burden of proof in establishing that she sustained an injury to both wrists causally related to factors of her federal employment.

On March 1, 1999 appellant, then a 37-year-old letter carrier, filed a notice of occupational disease and claim for compensation, alleging that she developed pain in her wrists as a result of her employment.

In response to a March 11, 1999 request by the Office of Workers' Compensation Programs for further information, appellant submitted a March 5, 1999 report by Dr. John J. Fernandez, a Board-certified orthopedic surgeon, indicating that appellant suffered from bilateral wrist flexor tenosynovitis, moderate in severity, and bilateral wrist distal radioulnar joint synovitis, moderate in severity. Appellant also submitted unsigned notes, apparently written by appellant, wherein she stated that her pain was getting better, but was worse when she held things in her hand.

In a decision dated April 14, 1999, the Office denied appellant's claim for compensation benefits, finding that the medical evidence was not sufficient to establish that her condition was caused by any employment factors, as required by the Federal Employees' Compensation Act.¹

The Board finds that appellant has failed to establish that she sustained an injury to her wrists causally related to factors of her federal employment.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was filed within the applicable time

¹ 5 U.S.C. §§ 8101-8193.

limitation of the Act, that an injury² was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁴

In an occupational disease claim such as this, claimant must submit: (1) medical evidence establishing the existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the disease; and (3) medical evidence establishing that the employment factors were the proximate cause of the disease, or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.⁵ As part of this burden, appellant must furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.

In the case at hand, appellant has failed to submit medical evidence linking her wrist condition to factors of her federal employment. Although Dr. Fernandez notes that appellant had bilateral wrist flexor tenosynovitis and bilateral wrist distal radioulnar joint synovitis, he does not specifically link these conditions to appellant's employment. An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation. Accordingly, appellant failed to meet her burden of proof in establishing an injury under the Act.

² Section 8101(5) of the Act defines "injury" in relevant part as follows: "'injury' includes, in addition to injury by accident, disease proximately caused by employment."

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Charles E. Evans*, 48 ECAB 692 (1997).

⁵ *Victor J. Woodhams*, 41 ECAB 345 352 (1989).

The decision of the Office of Workers' Compensation Programs dated April 14, 1999 is hereby affirmed.⁶

Dated, Washington, D.C.
September 11, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁶ The Board and the Office cannot have jurisdiction over the same case at the same time; *see Arlonia B. Taylor*, 44 ECAB 591, 597 (1993). The appeal in the instant case was filed with the Board on July 14, 1999. Accordingly, the Office's decision dated September 13, 1999 is null and void. The Board further notes that appellant submitted additional evidence to the Office after the issuance of the April 14, 1999 decision by the Office. She also submitted new evidence to the Board on appeal. The Board has no jurisdiction to review evidence submitted by appellant subsequent to the Office's April 14, 1999 decision or for the first time on appeal; *see* 20 C.F.R. § 501.2(c).